

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DAN HARKABI,  
GIDON ELAZAR,

Plaintiffs,

vs.

SANDISK CORPORATION,

Defendant.  
-----X

Index No.: 08-CV-8203(WHP)(THK)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that upon the annexed affirmation of Charles A. Stillman dated November 18, 2009 and the exhibits thereto, the annexed affidavits of Dan Harkabi and Gidon Elazar both dated November 18, 2009 and the exhibits thereto, and the accompanying Memorandum of Law, plaintiffs Dan Harkabi and Gidon Elazar, by their attorneys STILLMAN, FRIEDMAN & SHECHTMAN, P.C., move before this Court for the following relief:

- 1) An order granting summary judgment in favor of plaintiffs as a sanction for defendant SanDisk's spoliation;
  - a. In the alternative, an order imposing an adverse inference and precluding SanDisk from introducing certain evidence, as detailed in the accompanying Memorandum of Law; and
- 2) An order instructing SanDisk to pay the costs resulting from its spoliation.

Dated: New York, New York  
November 18, 2009

STILLMAN, FRIEDMAN & SHECHTMAN, P.C.

By: /s Charles A. Stillman  
Charles A. Stillman  
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